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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM RENFER,

Plaintiff,

vs.

MOMENTIVE GLOBAL INC., LAUREN
ANTONOFF, SUSAN L. DECKER,
DAVID EBERSMAN, DANA L. EVAN,
RYAN FINLEY, SAGAR GUPTA,
ERIKA H. JAMES, ZANDER LURIE,
SHERYL SANDBERG, and BENJAMIN
C. SPERO,

Defendants.

Case No.:

Complaint For:

- (1) Violation of § 14 (a) of the Securities Exchange Act of 1934
- (2) Violation of § 20(a) of the Securities Exchange Act of 1934

JURY TRIAL DEMANDED

Plaintiff, William Renfer (“Plaintiff”), by and through his attorneys, alleges upon information and belief, except for those allegations that pertain to him, which are alleged upon personal knowledge, as follows:

SUMMARY OF THE ACTION

1. Plaintiff brings this stockholder action against Momentive Global Inc. (“Momentive” or the “Company”) and the Company’s Board of Directors (the “Board” or the “Individual Defendants,” collectively with the Company, the “Defendants”), for violations of Sections 14(a) and 20(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”) as a result of Defendants’ efforts to sell the Company to a consortium of entities led by Symphony

1 Technology Group (the “Ultimate Parent”), through merger vehicles Mercury Bidco LLC
2 (“Parent”) and Mercury Merger Sub, Inc. (“Merger Sub,” and together with Ultimate Parent and
3 Parent, “STG”) as a result of an unfair process, and to enjoin an upcoming stockholder vote on a
4 proposed all cash transaction (the “Proposed Transaction”).

5
6 2. The terms of the Proposed Transaction were memorialized in a March 14, 2023,
7 filing with the Securities and Exchange Commission (“SEC”) on Form 8-K attaching the definitive
8 Agreement and Plan of Merger (the “Merger Agreement”). Under the terms of the Merger
9 Agreement, each existing share of Momentive common stock will be converted into the right to
10 receive \$9.46 in cash, thus freezing out Plaintiff and all other stockholders of Momentive from
11 continued ownership interest in the Company.

12
13 3. Thereafter, on April 17, 2023, Momentive filed a Preliminary Proxy Statement on
14 Form PREM14A (the “Preliminary Proxy Statement”) with the SEC in support of the Proposed
15 Transaction.

16 4. The Proposed Transaction is unfair for a number of reasons. Significantly, it
17 appears as though the Board has entered into the Proposed Transaction to procure for itself and
18 senior management of the Company significant and immediate benefits with no thought to
19 Plaintiff, as well as the Company’s public stockholders. For instance, pursuant to the terms of the
20 Merger Agreement, upon the consummation of the Proposed Transaction, Company Board
21 Members and executive officers will be able to exchange all Company equity awards for the
22 merger consideration.
23

24 5. In violation of the Exchange Act, Defendants caused to be filed the materially
25 deficient Preliminary Proxy Statement, preventing Plaintiff from making a fully informed decision
26 on whether to vote in favor of the proposed transaction. The Preliminary Proxy Statement is
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1 materially deficient, deprives Plaintiff of the information necessary to make an intelligent,
2 informed and rational decision of whether to vote in favor of the Proposed Transaction, and is thus
3 in violation of the Exchange Act. As detailed below, the Preliminary Proxy Statement omits and/or
4 misrepresents material information concerning, among other things: (a) the sales process and in
5 particular certain conflicts of interest for management; (b) the financial projections for Momentive,
6 provided by Momentive management to the Board and the Board's financial advisor Qatalyst
7 Partners LP ("Qatalyst") (c) the data and inputs underlying the financial valuation analyses, if any,
8 that purport to support the fairness opinion created by Qatalyst, if any, and provide to the Company
9 and the Board.
10

11 6. Absent judicial intervention, the Proposed Transaction will be consummated,
12 resulting in irreparable injury to Plaintiff. This action seeks to enjoin the Proposed Transaction.
13

14 **PARTIES**

15 7. Plaintiff is a citizen of Alaska and, at all times relevant hereto, has been a
16 Momentive stockholder.

17 8. Defendant Momentive provides Software-as-a-Service solutions that help
18 businesses turn stakeholder feedback into action in the United States and internationally.
19 Momentive is incorporated under the laws of the State of Delaware and has its principal place of
20 business at One Curiosity Way, San Mateo, CA 94403. Shares of Momentive common stock are
21 traded on the Nasdaq Stock Exchange under the symbol "MNTV".

22 9. Defendant Lauren Antonoff ("Antonoff") has been a Director of the Company at
23 all relevant times.

24 10. Defendant Susan L. Decker ("Decker") has been a director of the Company at all
25 relevant times.

26 11. Defendant David Ebersman ("Ebersman") has been a director of the Company
27 at all relevant times. In addition Ebersman serves as the Chair of the Company Board.
28

12. Defendant Dana L. Evan (“Evan”) has been a director of the Company at all relevant times.

13. Defendant Ryan Finley (“Finley”) has been a director of the Company at all relevant times.

14. Defendant Sagar Gupta (“Gupta”) has been a director of the Company at all relevant times.

15. Defendant Erika H. James (“James”) has been a director of the Company at all relevant times.

16. Defendant Zander Lurie (“Lurie”) has been a director of the Company at all relevant times. In addition Lurie serves as the Company’s Chief Executive Officer (“CEO”).

17. Defendant Sheryl Sandberg (“Sandberg”) has been a director of the Company at all relevant times.

18. Defendant Benjamin C. Spero (“Spero”) has been a director of the Company at all relevant times.

19. Defendants identified in ¶¶ 9 - 18 are collectively referred to as the “Individual Defendants.”

20. Non-Party Ultimate Parent is a private equity partner to market leading companies in data, software, and analytics.

21. Non-Parties Parent and Merger Sub are wholly owned subsidiaries of Ultimate Parent created to effectuate the Proposed Transaction.

JURISDICTION AND VENUE

22. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of Sections 14(a) and 20(a) of the Exchange Act. This action is not a collusive one to confer jurisdiction on a court of the United States, which it would not otherwise have. The Court has supplemental jurisdiction over any claims arising under state law pursuant to 28 U.S.C. § 1367.

1 23. Personal jurisdiction exists over each defendant either because the defendant
2 conducts business in or maintains operations in this District, or is an individual who is either
3 present in this District for jurisdictional purposes or has sufficient minimum contacts with this
4 District as to render the exercise of jurisdiction over defendant by this Court permissible under
5 traditional notions of fair play and substantial justice.

6 24. Venue is proper in this District pursuant to 28 U.S.C. § 1391, because Momentive
7 maintains its principal offices in this district, and each of the Individual Defendants, as Company
8 officers or directors, has extensive contacts within this District.

9 **SUBSTANTIVE ALLEGATIONS**

10 ***Company Background***

11 25. Momentive provides Software-as-a-Service solutions that help businesses turn
12 stakeholder feedback into action in the United States and internationally. The Company offers
13 survey software products under the SurveyMonkey brand, that enable customers to listen and take
14 action on stakeholder feedback; GetFeedback Essentials that provides companies the tools to
15 launch customer experience programs quickly by gathering feedback via email and across their
16 websites, analyzing it in one place, and integrating with their Salesforce CRM platform;
17 GetFeedback Pro, which includes the Essentials features and adds feedback collection channels,
18 advanced analytics, automation, and additional pre-built integrations; and GetFeedback Ultimate
19 that comprises the GetFeedback Pro features and adds mobile apps as a feedback collection
20 channel and enables single sign-on, as well as GetFeedback Direct and GetFeedback Digital.

21 26. The Company also provides Audience panel, which enables organizations to collect
22 and analyze real-time actionable data from targeted panelists; Purpose-built insights solutions that
23 offers a suite of solutions, such as brand and industry tracking, usage & attitudes, and concept,
24 packaging, Ad, name, message, and logo design testing; TechValidate, a marketing content
25 automation solution; SurveyMonkey Apply, an application management solution; and Wufoo that
26 helps users create web and mobile forms, collect file uploads, and receive online payments.

1 27. Momentive serves financial services, internet, technology, healthcare, media and
 2 entertainment, consumer goods and retail, transportation and logistics, government agencies,
 3 manufacturing, energy, education, professional services, and non-profit organizations.

4 28. The Company's most recent financial performance press release, revealing
 5 financial results from the quarter preceding the announcement of the Proposed Transaction,
 6 indicated sustained and solid financial performance. For example, in the February 16, 2023 press
 7 release announcing its Q4 and FY 2022 financial results, the Company highlighted such milestones
 8 as total revenues of \$122.4 million, an increase of 4% compared to the same period last year.
 9 Further, sales-assisted revenue was \$49.3 million, an increase of 23% year-on-year.

10 29. Speaking on these positive results, CEO Defendant Lurie commented on the
 11 Company's positive financial results and prospects for future growth as follows, "Our fourth
 12 quarter results illustrate our continued execution against our top priorities: driving meaningful
 13 operating leverage and positioning the company for more profitable growth."

14 30. These positive results are not an anomaly, but rather, are indicative of a trend of
 15 continued financial success and future potential success by Momentive. Clearly, based upon these
 16 positive financial results and outlook, the Company is likely to have tremendous future success.

17 31. Despite this upward trajectory and continually increasing financial results, the
 18 Individual Defendants have caused Momentive to enter into the Proposed Transaction without
 19 providing requisite information to Momentive stockholders such as Plaintiff.

20 ***The Flawed Sales Process***

21 32. As detailed in the Preliminary Proxy Statement, the process deployed by the
 22 Individual Defendants was flawed and inadequate, was conducted out of the self-interest of the
 23 Individual Defendants and was designed with only one concern in mind – to effectuate a sale of
 24 the Company by any means possible.

25 33. Notably, the Preliminary Proxy Statement is silent as to the nature of the
 26 confidentiality agreement entered into between the Company and STG, whether this agreement
 27 differed from any other agreement with potentially interested third parties not specifically
 28

mentioned by the Preliminary Proxy Statement, if so in all specific manners, including all specific terms of any such included “don’t-ask, don’t-waive” provisions or standstill provisions contained therein, including, all specific conditions, if any, under which such provisions would fall away.

34. It is not surprising, given this background to the overall sales process, that it was conducted in an inappropriate and misleading manner.

The Proposed Transaction

35. On March 13, 2023, Momentive issued a press release announcing the Proposed Transaction. The press release stated, in relevant part:

SAN MATEO, Calif. — Mar. 13, 2023 — Momentive (Nasdaq: MNTV), the maker of SurveyMonkey, today announced it has entered into a definitive agreement to be acquired by a consortium led by Symphony Technology Group (STG) in an all-cash transaction that values Momentive at approximately \$1.5 billion. Under the terms of the agreement, Momentive shareholders will receive \$9.46 per share, representing a premium of approximately 28% to the volume weighted average closing price of Momentive stock for the 10 trading days ending on March 13, 2023, and a 46% premium to the company’s closing stock price on the day prior to media rumors regarding a potential sale on October 19, 2022.

“This new chapter will enable Momentive to advance our long-term strategy and mission,” said Zander Lurie, Momentive CEO. “STG’s 20 years of investment experience in software, analytics, and data companies will provide us with invaluable expertise as we scale our customer base and product suite. Today’s volatile business climate necessitates that organizations consistently collect feedback from their stakeholders. That’s where we shine.”

“The transaction is the result of an extensive and careful process to review strategic alternatives by the Momentive board. The board believes this is the right path for delivering certain and attractive value for shareholders,” said David Ebersman, chair of the Momentive Board of Directors. “The Momentive board voted unanimously in favor of the transaction.”

“SurveyMonkey is the most iconic brand in survey technology and has a terrific reputation among individuals, teams, and enterprises for innovation and leadership, with an impressive combination of incredible ease of use and advanced enterprise capabilities and analytics,” said J.T. Treadwell, Managing Director at STG. “We have long admired the company during our 20-year history of active investment in the insights and analytics sector, and are very excited to partner with the team at Momentive to build upon their excellent foundation. Together we will continue delivering exceptional value and innovation to individuals and enterprises globally.”

Approvals and Timing

The transaction, which was approved unanimously by the Momentive Board of Directors, is expected to close in the second or third quarter of 2023, subject to customary closing conditions, including approval by Momentive shareholders and the receipt of required regulatory approvals. The transaction is not subject to a financing condition.

Upon completion of the transaction, Momentive's common stock will no longer be listed on any public market. The company will continue to operate under the Momentive name and Momentive and SurveyMonkey brands.

Advisors

Qatalyst Partners is serving as financial advisor to Momentive in connection with the proposed transaction. Wilson Sonsini Goodrich & Rosati, P.C. is serving as legal counsel to Momentive.

Paul Hastings LLP is serving as legal counsel to STG. Silver Point acted as Sole Lead Arranger and provided committed debt financing in support of the acquisition.

Potential Conflicts of Interest

36. The breakdown of the benefits of the deal indicate that Momentive insiders are the primary beneficiaries of the Proposed Transaction, not the Company's public stockholders such as Plaintiff. The Board and the Company's executive officers are conflicted because they will have secured unique benefits for themselves from the Proposed Transaction not available to Plaintiff as a public stockholder of Momentive.

37. Company insiders, currently own large, illiquid portions of Company stock all of which will be exchanged for the merger consideration upon the consummation of the Proposed Transaction, not shared amongst Plaintiff and other public stockholders of the Company.

38. Additionally, Company insiders, currently own large amounts of company options, restricted stock units, and other equity awards, all of which will be exchanged for the merger consideration upon the consummation of the Proposed Transaction, not shared amongst Plaintiff and other public stockholders of the Company.

39. These amounts of stock and equity awards held by Company insiders are substantial, and will provide such insiders with large cash paydays not shared amongst Plaintiff and other public stockholders of the Company as follows.

Name	Shares of Common Stock Held Directly ⁽¹⁾		In-the-Money Vested Momentive Options ⁽²⁾		In-the-Money Unvested Momentive Options ⁽³⁾		Momentive RSUs ⁽⁴⁾		Momentive restricted stock ⁽⁵⁾		
	Number of Shares (#)	Value of Shares (\$)	Number of Shares Subject to Vested Portion (#)	Value of Shares Subject to Vested Portion (\$)	Number of Shares Subject to Unvested Portion (#)	Value of Shares Subject to Unvested Portion (\$)	Number of Shares (#)	Value (\$)	Number of Shares (#)	Value (\$)	Total (\$) ⁽⁶⁾
Lauren Antonoff	3,048	28,834	3,048	—	—	—	33,523	317,128	—	—	345,962
David Ebersman	55,626	526,222	55,626	—	—	—	2,512	23,764	—	—	549,985
Ryan Finley	8,125,915	76,871,156	20,626	—	—	—	2,512	23,764	—	—	76,894,919
Erika H. James	28,749	271,966	28,749	—	—	—	2,512	23,764	—	—	295,729
Sheryl Sandberg	8,899,833	84,192,420	—	—	—	—	—	—	—	—	84,192,420
Susan L. Decker	55,626	526,222	55,626	—	—	—	2,512	23,764	—	—	549,985
Dana L. Evan	35,988	340,446	35,988	—	—	—	2,512	23,764	—	—	364,210
Sagar Gupta	—	—	—	—	—	—	17,587	166,373	—	—	166,373
Alexander J. Lurie	985,212	9,320,106	880,333	—	—	—	353,211	3,341,376	320,538	3,032,290	15,693,772
Benjamin C. Spero	95,434	902,806	86,937	—	—	—	2,512	23,764	—	—	926,569
Serena Williams	—	—	—	—	—	—	—	—	—	—	—
Brad Smith	—	—	—	—	—	—	—	—	—	—	—
Justin Coulombe	—	—	—	—	—	—	—	—	—	—	—
Tom Hale	13,935	131,825	13,935	—	—	—	—	—	—	—	131,825
John Schoenstein	—	—	—	—	—	—	—	—	—	—	—
Lora Blum	73,139	691,895	73,139	—	150,000	348,000	84,567	800,004	94,268	891,775	2,731,674
Rebecca Cantieri	101,821	963,227	101,821	—	150,000	348,000	75,053	710,001	80,699	763,412	2,784,641
Priyanka Carr	98,354	930,429	98,354	—	150,000	348,000	146,063	1,381,756	133,105	1,259,173	3,919,358
Clarence Ewell	73,138	691,885	73,138	—	150,000	348,000	310,958	2,941,663	—	—	3,981,548
Richard Sullivan Jr.	—	—	—	—	—	—	590,217	5,583,453	—	—	5,583,453

40. In addition, certain employment agreements with certain Momentive executives, entitle such executives to severance packages should their employment be terminated under certain circumstances. These ‘golden parachute’ packages are significant and will grant each director or officer entitled to them millions of dollars, compensation not shared by Plaintiff as follows:

Golden Parachute Compensation

Name	Cash (\$) ⁽¹⁾	Equity (\$) ⁽²⁾	Perquisites / Benefits (\$) ⁽³⁾	Total (\$) ⁽⁴⁾
Alexander J. Lurie	915,342	6,373,666	53,383	7,342,391
Richard Sullivan Jr.	508,342	1,395,870	23,010	1,927,222
Lora Blum	462,976	2,039,779	15,167	2,517,923
Clarence Ewell	520,164	3,289,663	15,167	3,824,994
Priyanka Carr	462,237	2,988,929	6,936	3,458,103
Justin Coulombe ⁽⁵⁾	0	0	0	0
John Schoenstein ⁽⁶⁾	0	0	0	0

41. The Preliminary Proxy Statement also fails to adequately disclose communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. Communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. This information is necessary for Plaintiff to understand potential conflicts of interest of management and the Board, as that information provides illumination concerning motivations that would prevent fiduciaries from acting solely in the best interests of the Company’s stockholders.

42. Thus, while the Proposed Transaction is not in the best interests of Momentive, Plaintiff or Company stockholders, it will produce lucrative benefits for the Company’s officers and directors.

The Materially Misleading and/or Incomplete Preliminary Proxy Statement

43. On April 17, 2023, the Momentive Board caused to be filed with the SEC a materially misleading and incomplete Preliminary Proxy Statement that, in violation the Exchange

Act, failed to provide Plaintiff in his capacity as a Company stockholder with material information and/or provides materially misleading information critical to the total mix of information available to Plaintiff concerning the financial and procedural fairness of the Proposed Transaction.

Omissions and/or Material Misrepresentations Concerning the Sales Process leading up to the Proposed Transaction

44. Specifically, the Preliminary Proxy Statement fails to disclose material information concerning the process conducted by the Company and the events leading up to the Proposed Transaction. In particular, the Preliminary Proxy Statement fails to disclose:

- a. Whether the confidentiality agreements entered into by the Company with STG differed from any other unnamed confidentiality agreement entered into between the Company and an interested third parties;
- b. All specific conditions under which any standstill provision contained in any entered confidentiality agreement entered into between the Company and potentially interested third parties throughout the sales process, including STG and/or its affiliates, would fall away; and
- c. Adequate and complete disclosure of communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders.

Omissions and/or Material Misrepresentations Concerning Momentive's Financial Projections

45. The Preliminary Proxy Statement fails to provide material information concerning financial projections for Momentive provided by Momentive management to the Board and Qatalyst, and relied upon by Qatalyst in its analyses. The Preliminary Proxy Statement discloses management-prepared financial projections for the Company which are materially misleading.

46. Notably the Preliminary Proxy Statement reveals that as part of its analyses, Qatalyst reviewed, "the March 2023 long-range plan and the March 2023 extrapolations prepared by Momentive management".

1 47. Therefore, the Preliminary Proxy Statement should have, but fails to provide,
2 certain information in the projections that Momentive management provided to the Board and
3 Qatalyst. Courts have uniformly stated that “projections ... are probably among the most highly-
4 prized disclosures by investors. Investors can come up with their own estimates of discount rates
5 or [] market multiples. What they cannot hope to do is replicate management’s inside view of the
6 company’s prospects.” *In re Netsmart Techs., Inc. S’holders Litig.*, 924 A.2d 171, 201-203 (Del.
7 Ch. 2007)

8 48. With regard to the *April 2022 Long Range Plan* set of projections prepared by
9 Momentive, the Preliminary Proxy Statement fails to disclose material line items for important
10 metrics as follows:

- 11 a. Non-GAAP Operating Income, including all underlying inputs, metrics, and
12 assumptions, including specifically: GAAP income (loss) from operations,
13 stock-based compensation, net, amortization of acquisition intangible assets,
14 acquisition-related transaction costs, and restructuring.

15 49. With regard to the *November 2022 Long Range Plan* set of projections prepared by
16 Momentive, the Preliminary Proxy Statement fails to disclose material line items for important
17 metrics as follows:

- 18 a. Non-GAAP Operating Income, including all underlying inputs, metrics, and
19 assumptions, including specifically: GAAP income (loss) from operations,
20 stock-based compensation, net, amortization of acquisition intangible assets,
21 acquisition-related transaction costs, and restructuring.

22 50. With regard to the *March 2023 Long Range Plan and March 2023 Extrapolations*
23 set of projections prepared by Momentive, the Preliminary Proxy Statement fails to disclose
24 material line items for important metrics as follows:

- 25 a. Non-GAAP Operating Income, including all underlying inputs, metrics, and
26 assumptions, including specifically: GAAP income (loss) from operations,
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stock-based compensation, net, amortization of acquisition intangible assets, acquisition-related transaction costs, and restructuring; and

- b. Unlevered Free Cash Flow, including all underlying inputs, metrics, and assumptions, including specifically: the impact of cash taxes, depreciation and amortization, capital expenditures, changes in net working capital and amortization of deferred costs.

51. The Preliminary Proxy Statement also fails to disclose a reconciliation of all non-GAAP to GAAP metrics utilized in the projections.

52. This information is necessary to provide Plaintiff, in their capacity as a Company stockholder, a complete and accurate picture of the sales process and its fairness. Without this information, Plaintiff is not fully informed as to Defendants' actions, including those that may have been taken in bad faith, and cannot fairly assess the process.

53. Without accurate projection data presented in the Preliminary Proxy Statement, Plaintiff is unable to properly evaluate the Company's true worth, the accuracy of Qatalyst's financial analyses, or make an informed decision whether to vote in favor of the Proposed Transaction. As such, the Board has violated the Exchange Act by failing to include such information in the Preliminary Proxy Statement.

Omissions and/or Material Misrepresentations Concerning the Financial Analyses by Qatalyst

54. In the Preliminary Proxy Statement, Qatalyst describes its fairness opinion and the various valuation analyses performed to render such opinion. However, the descriptions fail to include necessary underlying data, support for conclusions, or the existence of, or basis for, underlying assumptions. Without this information, one cannot replicate the analyses, confirm the valuations or evaluate the fairness opinions.

55. With respect to the *Discounted Cash Flow Analysis*, the Preliminary Proxy Statement fails to disclose the following:

- a. The specific inputs, metrics, and assumptions used to determine range of discount rates from 12.0% to 14.5%;
- b. The Company's estimated weighted average cost of capital utilized, and the specific inputs and assumptions used to determine it;
- c. The terminal value of the Company calculated;
- d. The specific inputs, metrics, and assumptions used to determine the utilized range of fully diluted enterprise value to next-12-months' estimated UFCF multiples of 10.0x to 15.0x;
- e. The Company's cash and cash equivalents as of December 31, 2022;
- f. The implied net present value of Momentive's estimated federal tax savings due to its remaining research and development tax credits for calendar year 2032;
- g. The principal amount of Momentive's outstanding debt as of December 31, 2022, as provided by Momentive management; and
- h. The number of fully diluted shares of Momentive common stock outstanding as of March 10, 2023.

56. With respect to the *Selected Companies Analysis*, the Preliminary Proxy Statement fails to disclose the following:

- a. The specific inputs and assumptions used to determine the utilized CY2023E Revenue multiple reference range of 2.0x to 3.5x; and
- b. The specific inputs and assumptions used to determine the utilized CY2023E LFCF multiple reference range of 10.5x to 15.0x.

57. With respect to the *Selected Transactions Multiples Analysis*, the Preliminary Proxy Statement fails to disclose the following:

- a. The specific date on which each transaction closed;
- b. The value of each transaction compared;

- c. The specific inputs and assumptions used to determine the utilized LTM Revenue multiple reference ranges 2.6x to 6.3x;
- d. The specific inputs and assumptions used to determine the utilized NTM Revenue multiple reference ranges 2.3x to 5.9x; and
- e. The specific inputs and assumptions used to determine the utilized NTM LFCF multiple reference ranges 13.1x to 27.5x.

58. These disclosures are critical for Plaintiff to be able to make an informed decision on whether to vote in favor of the Proposed Transaction.

59. Without the omitted information identified above, Plaintiff is missing critical information necessary to evaluate whether the proposed consideration truly maximizes his value and serves his interest as a stockholder. Moreover, without the key financial information and related disclosures, Plaintiff cannot gauge the reliability of the fairness opinion and the Board's determination that the Proposed Transaction is in his best interests as a public Momentive stockholder. As such, the Board has violated the Exchange Act by failing to include such information in the Preliminary Proxy Statement

FIRST COUNT

Violations of Section 14(a) of the Exchange Act

(Against All Defendants)

60. Plaintiff repeats all previous allegations as if set forth in full herein.

61. Defendants have disseminated the Preliminary Proxy Statement with the intention of soliciting stockholders, including Plaintiff, to vote in favor of the Proposed Transaction.

62. Section 14(a) of the Exchange Act requires full and fair disclosure in connection with the Proposed Transaction. Specifically, Section 14(a) provides that:

It shall be unlawful for any person, by the use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, in contravention of such rules and regulations as the [SEC] may prescribe as necessary or appropriate in the public interest or for the protection

1 of investors, to solicit or to permit the use of his name to solicit any proxy or consent
2 or authorization in respect of any security (other than an exempted security)
3 registered pursuant to section 78l of this title.

4 63. As such, SEC Rule 14a-9, 17 C.F.R. 240.14a-9, states the following:

5 No solicitation subject to this regulation shall be made by means of any proxy
6 statement, form of proxy, notice of meeting or other communication, written or
7 oral, containing any statement which, at the time and in the light of the
8 circumstances under which it is made, is false or misleading with respect to any
9 material fact, or which omits to state any material fact necessary in order to make
10 the statements therein not false or misleading or necessary to correct any statement
11 in any earlier communication with respect to the solicitation of a proxy for the same
12 meeting or subject matter which has become false or misleading.

13 64. The Preliminary Proxy Statement was prepared in violation of Section 14(a)
14 because it is materially misleading in numerous respects and omits material facts, including those
15 set forth above. Moreover, in the exercise of reasonable care, Defendants knew or should have
16 known that the Preliminary Proxy Statement is materially misleading and omits material facts that
17 are necessary to render them non-misleading.

18 65. The Individual Defendants had actual knowledge or should have known of the
19 misrepresentations and omissions of material facts set forth herein.

20 66. The Individual Defendants were at least negligent in filing a Preliminary Proxy
21 Statement that was materially misleading and/or omitted material facts necessary to make the
22 Preliminary Proxy Statement not misleading.

23 67. The misrepresentations and omissions in the Preliminary Proxy Statement are
24 material to Plaintiff, and Plaintiff will be deprived of his entitlement to decide whether to vote his
25 shares in favor of the Proposed Transaction on the basis of complete information if such
26 misrepresentations and omissions are not corrected prior to the stockholder vote regarding the
27 Proposed Transaction.

SECOND COUNT

Violations of Section 20(a) of the Exchange Act

(Against all Individual Defendants)

68. Plaintiff repeats all previous allegations as if set forth in full herein.

69. The Individual Defendants were privy to non-public information concerning the Company and its business and operations via access to internal corporate documents, conversations and connections with other corporate officers and employees, attendance at management and Board meetings and committees thereof and via reports and other information provided to them in connection therewith. Because of their possession of such information, the Individual Defendants knew or should have known that the Preliminary Proxy Statement was materially misleading to Plaintiff in his capacity as a Company stockholder.

70. The Individual Defendants were involved in drafting, producing, reviewing and/or disseminating the materially false and misleading statements complained of herein. The Individual Defendants were aware or should have been aware that materially false and misleading statements were being issued by the Company in the Preliminary Proxy Statement and nevertheless approved, ratified and/or failed to correct those statements, in violation of federal securities laws. The Individual Defendants were able to, and did, control the contents of the Preliminary Proxy Statement. The Individual Defendants were provided with copies of, reviewed and approved, and/or signed the Preliminary Proxy Statement before its issuance and had the ability or opportunity to prevent its issuance or to cause it to be corrected.

71. The Individual Defendants also were able to, and did, directly or indirectly, control the conduct of Momentive's business, the information contained in its filings with the SEC, and its public statements. Because of their positions and access to material non-public information available to them but not the public, the Individual Defendants knew or should have known that the misrepresentations specified herein had not been properly disclosed to and were being concealed from Plaintiff and Company, and that the Preliminary Proxy Statement was misleading.

1 As a result, the Individual Defendants are responsible for the accuracy of the Preliminary Proxy
2 Statement and are therefore responsible and liable for the misrepresentations contained herein.

3 72. The Individual Defendants acted as controlling persons of Momentive within the
4 meaning of Section 20(a) of the Exchange Act. By reason of their position with the Company, the
5 Individual Defendants had the power and authority to cause Momentive to engage in the wrongful
6 conduct complained of herein. The Individual Defendants controlled Momentive and all of its
7 employees. As alleged above, Momentive is a primary violator of Section 14 of the Exchange Act
8 and SEC Rule 14a-9. By reason of their conduct, the Individual Defendants are liable pursuant to
9 section 20(a) of the Exchange Act.

10 WHEREFORE, Plaintiff demands injunctive relief, in his favor and against the Defendants,
11 as follows:

12 A. Enjoining the Proposed Transaction;

13 B. In the event Defendants consummate the Proposed Transaction, rescinding it and
14 setting it aside or awarding rescissory damages to Plaintiff;

15 C. Directing the Individual Defendants to exercise their fiduciary duties to disseminate
16 a Preliminary Proxy Statement that does not contain any untrue statements of material fact
17 and that states all material facts required in it or necessary to make the statements contained
18 therein not misleading;

19 D. Awarding Plaintiff the costs of this action, including reasonable allowance for
20 Plaintiff's attorneys' and experts' fees; and

21 E. Granting such other and further relief as this Court may deem just and proper.
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury on all issues which can be heard by a jury.

Dated: April 21, 2023

BRODSKY & SMITH

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